



EX PARTE OR LATE FILED

# RURAL TELEPHONE SERVICE CO., INC.

December 16, 2003

The Honorable Michael K. Powell, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

Re: *Ex Parte* Communication  
RM-10822 / CC Docket 96-45 *Western Wireless Petition to Eliminate Rate of Return Regulation of Incumbent Local Exchange Carriers*

Dear Chairman Powell:

Rural Telephone Service Company, Inc. ("Rural"), a rural incumbent local exchange carrier providing service in northwestern Kansas, would like to take this opportunity to address statements made by Western Wireless ("WW") in its Petition to Eliminate Rate of Return Regulation of Incumbent Local Exchange Carriers ("Petition"). Specifically, Rural will address statements contained in Attachment A to said Petition regarding the Kansas "case study" that purports to represent certain issues that arose during Rural's audit by the Kansas Corporation Commission ("KCC").


WW makes several statements regarding the audit of Rural by the KCC, which took place during the years 2000 and 2001. The statements made in Attachment A related to Rural, in most instances, severely misrepresent the facts of the case. For example, WW states that Rural "claimed more property tax expense than it had actually paid during the test year" (Attachment A, page 6). This statement is patently false and demonstrates a misconception of how the state ratemaking process works in Kansas. WW's statement regarding property tax expense refers to a proforma, or normalizing, adjustment made to Rural's 1999 test year, which in this case recognized that Rural's property tax expense was lower when measured 11 months beyond the end of the test year (i.e., November 2000). Rural did not claim expense that it had not paid, and WW's statement to the contrary should be seen as incorrect propaganda.

WW also claims that the Commission found that Rural had excess intrastate revenues of \$801,533 (Attachment A, page 6). First of all, the amount quoted by WW does not reflect the final KCC determination. Secondly, WW is obviously attempting to correlate state earnings and ratemaking procedures with those under the Commission's jurisdiction – namely, interstate access and federal universal service support. This correlation, that in some way Rural's revenue requirement on a Kansas jurisdictional basis can be compared to its interstate revenue requirement, cannot be made for many reasons, the most apparent being the differing rates of return authorized by the KCC and the FCC. This, in many instances, accounts for what the KCC may find as revenue excess, when, if the same financial statements were examined under the FCC's rules, the company may be earning under its authorized rate of return in the interstate jurisdiction.

WW claims that Rural uses depreciation rates not permitted by the KCC. All the depreciation rates Rural utilizes have been approved through Orders from the KCC. This is another frivolous and exaggerated claim by WW. Finally, the inclusion of lobbying and corporate image advertising expense was a misunderstanding and disagreement with the KCC on the interpretation of the rules which can arise in any rate case proceeding.

In summary, given the misrepresentation of facts, the Commission should not rely on WW's Attachment A in its deliberations during this proceeding.

Sincerely,

  
Larry E. Sevier  
Chief Executive Officer

cc: Commissioner Kathleen Q. Abernathy  
Commissioner Jonathan S. Adelstein  
Commissioner Michael J. Copps  
Commissioner Kevin J. Martin